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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-first session

SUMMARY RECORD OF THE 1526th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 6 August 2002, at 10 a.m.

Chairman: Mr. Diaconu

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued) (CERD/C/320/Add.5; HRI/CORE/1/Add.91)

Thirteenth and fourteenth periodic reports of Canada (continued) (CERD/C/320/Add.5)

1. At the invitation of the Chairman, the members of the delegation of Canada resumed their places at the Committee table.

2. Mr. BOSSUYT asked for clarification regarding the categories of persons referred to as "visible minorities" throughout the report and whether minorities so designated differed from those recognized in international law.

3. Ms. JANUARY-BARDILL said that, although the report contained a wealth of information, it could have been more analytical, a failing that should be remedied in future reports. For example, it could have highlighted the challenges the Government of Canada faced in implementing some of its policies and legislation on race relations. She, too, was concerned about the use of certain terms, such as multiculturalism. In her view, racism was generally a structural rather than a cultural phenomenon and could therefore be dealt with in an institutional way. The report should also have concentrated less on procedures than on outcomes. A multicultural approach to racism tended to lead to superficial rather than substantive changes in the quality of life of visible minority groups. The report furthermore said little about the economic, social and cultural rights of indigenous people, particularly with regard to access to housing, health, education, employment and justice. Anti-black racism needed to be dealt with more explicitly, particularly in the criminal justice system where, according to reports by local non-governmental organizations (NGOs), black communities were over-represented. She was also concerned by recent reports of the mass expulsion from Canada of immigrants from Jamaica and other Caribbean countries and the cancelling of citizenship, a situation which was not reflected in the report, but which needed investigating.

4. With regard to the new Employment Equity Act (EEA), she asked the Government of Canada, in its next report, to disaggregate the figures to show how many black and indigenous people were occupying top and middle management posts in the public and, if possible, the private sector.

5. Finally, she would like to know how the Canadian Government was dealing with the increase in racial profiling following the events of 11 September 2001, to ensure that the rights of visible minorities were not eroded.

6. The CHAIRMAN, speaking as a member of the Committee, said that, according to some sources, a referendum had taken place in British Columbia during the spring and that a majority of those taking part had supported measures to limit the autonomy of the indigenous population, their land claims and tax exemption. If that were so, he asked what measures the Canadian Government was taking.

7. Ms. GINNISH (Canada), responding to the request for additional information on Canada's follow-up to the recommendations of the Royal Commission on Aboriginal Peoples, said that the progress report for the year 2000, entitled Gathering Strength, identified a number of specific achievements, including the establishment of the Aboriginal Healing Fund and Foundation, accords, protocols and programmes that provided a framework for Aboriginal organizations to participate in programme reform and advocacy, an Aboriginal language initiative, and progress on self-government and land claim negotiations. Canada had also recently introduced the First Nations Governance Act and the Specific Claims Resolution, and established the National Working Group on Education.

8. The Statement of Reconciliation was a formal acknowledgement of Canada's profound regret for the historic injustices committed against Aboriginal people in Canada. In particular, the Government recognized the tragic impact of the residential school system and had made a commitment of $350 million to develop healing and other initiatives.

9. With regard to the position of the Canadian Government on surrender, extinguishment and certainty, she explained that a reference to extinguishment of surrendered land and resource rights in land claim agreements was no longer required in Canada. The development of new procedures to provide certainty was a positive response to Aboriginal peoples' concerns about extinguishment of their rights in a land claim agreement. The Government was also examining procedures for incorporating new rights into a negotiated self-government agreement through an orderly, predictable process, as an alternative to extinguishment.

10. The First Nations Governance Initiative was the result of extensive consultations, which were still ongoing and during which more than 10,000 individuals had expressed their views. Its ultimate intention was to provide First Nations with the governance tools needed to improve the quality of life in their own communities.

11. As to why the Government of Canada had not conducted an inquiry into the death of Dudley George, the federal Government did not have the authority to conduct inquiries into allegations of misconduct by provincial officials and the province's police force.

12. With regard to residual discrimination in the Indian Act, the recently introduced First Nations Governance Act did not mention amending the registration provisions of the Indian Act and there were no immediate plans to do so, but a thorough review of such issues was to be undertaken and any future changes would be introduced in partnership with the Aboriginal people.

13. Regarding measures taken by the federal Government to help Aboriginal communities prove Aboriginal title in response to the Delgamuukw ruling, Canada had not implemented any particular policies or programmes. Negotiation was the preferred approach to Aboriginal title, although Aboriginal groups could still litigate. Where a land claim was negotiated, the Aboriginal community would hold title as defined in the agreement, and such ownership might be recognized in the Constitution. The Aboriginal community was not required to establish

Aboriginal title as laid out in Delgamuukw in order to negotiate a land claim with Canada. Assistance was provided to Aboriginal groups within the comprehensive claims processes, notably the Negotiations Preparedness/Capacity Initiative and the Native Claims Contributions Programme.

14 Canada recognized that both indigenous and non-indigenous collectivities who qualified as "peoples" under international law had a right of self-determination. Her country's view was that the right of self-determination should be exercised in a manner that respected the democratic process and the constitutional, political and territorial integrity of the State. Canada was participating in the United Nations Working Group on the draft declaration on the rights of indigenous peoples to find a common understanding of the right of self-determination as exercised by groups living within existing democratic nations. Distinct from the right of self-determination under international law was the inherent right of self-government under domestic law, recognized by Canada as an existing Aboriginal right within section 35 of the Constitution Act, 1982. Discussions in the Working Group would also help clarify the relationship between the exercise of the right of self-determination and that of the inherent right of self-government.

15. With regard to urban Aboriginal homelessness, the National Homelessness Initiative launched in 1999 included a well-funded Aboriginal component under which over 100 projects had been approved as of July 2002. Another 58 projects had been approved with the aim of helping Aboriginal organizations to address homelessness by encouraging communities to work with governments at all levels and with private and non-profit organizations to identify the immediate needs of homeless people and reduce homelessness.

16. Ms. BANERJEE (Canada), replying to questions regarding Aboriginal over-representation in the federal correctional system, said that the concept of community healing models had been devised to treat Aboriginal offenders, victims and their families. For example, Aboriginal Healing Lodges offered services and programmes that reflected Aboriginal cultures in a space that incorporated Aboriginal peoples' traditions and beliefs. The aim was to reduce recidivism rates by supporting the development of sustainable cultural, social and economic communities. The Correctional Service of Canada (CSC) had also established ethnocultural liaison services to ensure that the needs and cultural interests of offenders belonging to ethnocultural minority groups were identified and met. The services included intake assessment, assistance with pre-parole, discharge planning and group counselling. Recently, there had also been a substantial increase in the use of community sentences by Aboriginal offenders.

17. There had been no formal commission of inquiry into the alleged high rates of Aboriginal deaths in custody. In the event of a suspicious death within the federal correctional system, a mechanism existed to ensure that a proper investigation, such as a coroner's inquest, was conducted.

18. Regarding police practices and the five sudden death cases in Saskatchewan, as mentioned in the report of Amnesty International, a task force composed of members of the Royal Canadian Mounted Police (RCMP) - a federal police force completely independent of the provincial police force in Saskatoon - had investigated the deaths but had found no evidence of

negligence, foul play or abandonment in four out of the five cases. The fifth case was still pending. The Saskatchewan Government had ordered a coroner's inquest into the cause of death and the victims' families had been given access to legal counsel. A six-person jury had been present at the inquest, but had been unable to determine the precise circumstances of the deaths. In late 2001, the Attorney-General of Saskatchewan had established an independent commission on First Nations and Métis People and Justice Reform whose goal was to identify efficient, effective and financially responsible reforms to the justice system in order to reduce victimization and the incidence of incarceration and to build safer communities. The Commission's interim report would be provided to the Committee.

19. Ms. LEVASSEUR (Canada), responding to questions about diversity and the justice system, said that the federal and provincial authorities were currently supporting 90 community justice programmes involving more than 280 communities. Of particular interest were arrangements for out-of-court handling of cases and alternative sanctions that had been developed for vulnerable groups in an effort to stop them being stigmatized and marginalized by the criminal justice system. A First Nations Court, presided over by an Aboriginal judge, had also been established. Its proceedings were more informal than a regular court of law, and it used indigenous languages in its deliberations. In addition to those programmes, the Criminal Code provided that, in trying Aboriginal defendants, the courts should impose alternative sanctions whenever possible and, when trying Aboriginal adolescents, they should take account of their specific cultural needs.

20. Reference had been made to article 67 of the Canadian Human Rights Act, which stated that measures pursuant to the Indian Act could not form the basis of a complaint to the Canadian Human Rights Commission. A statutory amendment designed to discontinue that exemption had been referred to Parliament in June 2002.

21. As to the place of the Convention in the Canadian federal system, it should be noted that the rights guaranteed therein sometimes fell within the competence of the federal authorities, sometimes that of the provincial authorities, and sometimes both. Nevertheless, human rights instruments ratified by Canada applied to the whole country, and the appropriate courts were bound to enact their provisions. The federal and provincial authorities constantly consulted with each other and exchanged information regarding the interpretation and implementation of international human rights instruments. In some cases, Canada's federal system of government actually helped to protect human rights. For example, some Canadian provinces had previously had discriminatory provisions on sexual orientation; following a ruling by the Supreme Court of Canada, those provinces had subsequently been instructed to broaden their definition of discrimination.

22. Certain members of the Committee had raised concerns about Canada's unwillingness to make the declaration under article 14 of the Convention, owing to its difficulties with the interpretation of article 4. The Canadian Government's interpretation of article 4 of the Convention was broadly compatible with all the rights and freedoms of the person as recognized under international law and articulated in the Universal Declaration of Human Rights. It felt that the Committee's broader interpretation did not strike a proper balance between the need to protect individuals against hate speech and the need to protect the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association. In the view of the

Canadian Government, effective domestic legislation was in place to combat hate propaganda and hate-motivated activities and punish offenders. In the period 1999-2000, 15 charges of disseminating hate propaganda had been recorded; 12 cases had been fully investigated, resulting in two guilty pleas and one conviction. Unfortunately, it had not been possible to obtain precise information concerning the application of article 718 of the Criminal Code, which stipulated that a judge could impose a heavier sentence if an offence was found to be motivated by hatred or prejudice, because judicial reasoning did not go into such detail. Recent anti-terrorism legislation had incorporated a section dealing with hate-motivated activities in order to protect the basic Canadian values of equality, respect and equity. Finally, regarding article 4 (b) of the Convention, in the eyes of Canadian law the distinction between racist organizations and associations and membership thereof was less important than the actual activities of such organizations and their members.

23. As to the question of past wrongs inflicted on certain groups, the Canadian Government had abrogated certain outmoded laws and supported the production of films, books and university-level research intended to set the record straight. With regard to the specific question of the entry tax levied on Chinese immigrants, proceedings were currently under way in the courts and it would be inappropriate to comment on the case at the present time.

24. Ms. CHUMPUKA (Canada), responding to questions on employment equity, said that the 1995 Employment Equity Act (EEA) applied to federally regulated companies, federal contractors, and the Federal Public Service Commission, which itself covered 66 government departments. Since the submission of the report, the Canadian Armed Forces, the Royal Canadian Mounted Police and the security and intelligence services had also come within the purview of the Act. Overall representation of visible minorities in the public service had increased from 5.5 per cent in March 2000 to 6.1 per cent in March 2001. In 2001-2002, visible minorities represented 8.1 per cent of all new public servants. However, considerable efforts still needed to be made before the public service matched the visible minorities' current 8.7 per cent availability rate and the 20 per cent hiring goal set for 2003. More significantly, visible minorities' share of new hirings had risen from 8.3 per cent in 2000 to 11.5 per cent in 2001. Overall representation of Aboriginal peoples accounted for 3.6 per cent of the federal public service workforce in March 2001, up from 3.3 per cent on 31 March 2000, and higher than the 1.7 per cent workforce availability. In the period 1997-2000, the representation of members of the four designated groups in the private sector had also increased: representation of women had gone up from 40.9 per cent in 1987 to 44 per cent in 2000 compared with a labour market availability of 46.4 per cent; representation of Aboriginal peoples had risen from 0.7 per cent in 1987 to 1.5 per cent in 2000 compared with a labour market availability of 2.1 per cent; persons with disabilities had experienced a less significant rise in representation from 1.6 per cent in 1987 to 2.3 per cent in 2000, compared with a labour market availability of 6.5 per cent; and members of visible minorities had witnessed the most rapid growth in representation, from 5 per cent in 1987 to 10.7 per cent in 2000, compared with a labour market availability of 10.3 per cent. Obviously, there was room for improvement, especially in the areas of ensuring a broader distribution of Aboriginal peoples throughout the public service and increasing overall representation of visible minorities in management. To that end, the Public Service Commission had created a number of special programmes.

25. Further clarification was needed of the term "undue hardship", as used in paragraph 42 of the report. In a nutshell, the concept of undue hardship was not statutorily defined; employers were required to implement EEA initiatives up to a point of undue hardship; and the onus was on employers to prove the hardship. The issue usually surfaced in the context of Canadian Human Rights Commission audits, when an employer might raise undue hardship as a reason why a particular measure could not be implemented. In the event of non-compliance by an employer, the matter could be referred to a tribunal which would force the employer to take action. In such cases, it was the duty of the courts to determine what constituted undue hardship via the evidentiary process.

26. Any individual could file a complaint with the Canadian Human Rights Commission about discriminatory practices prohibited by the EEA. The Commission weeded out complaints that did not fall within its jurisdiction; that were frivolous, vexatious, or made in bad faith; or that had been filed after the one-year limitation period. A number of procedural steps were involved, for example investigation, conciliation or referral of a case to a tribunal (when negotiation or persuasion had proved fruitless). Tribunal orders were final and subject only to judicial review.

27. The term "visible minorities" had clearly caused some difficulties for members of the Committee. It dated from the 1970s, when it had been used to denote non-white, non-Caucasian, non-Aboriginal groups. It was currently applied to blacks born in Canada, black immigrants from Africa and the Caribbean, and persons of Asian descent. The term was emphatically not associated with the equality guarantees enshrined in the Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act, or any of the provincial human rights codes. It was specific to the EEA and was used only in reference to a particular employment programme.

28. Further to the Committee's suggestion that the Canadian Government might consider establishing an anti-racism unit, she was pleased to report that just such a role was currently being performed by the Office of Diversity and Gender Equality in the Justice Department. Its mandate was to promote awareness and the use of diversity and gender analysis. Specifically, it assisted justice personnel in assessing the potential impact of justice-related initiatives on Canadians who had frequently experienced problems in their dealings with the justice system. Under the same mechanism, assistance had been provided to various visible minority and race relations organizations to examine justice issues for their communities.

29. Ms. MCPHEE (Canada) said that the Government of British Columbia had introduced the Human Rights Code Amendment Bill in May 2002 to protect human rights in a more user-friendly, timely and relevant way by proposing to do away with the Human Rights Commission and the Human Rights Advisory Council and, without altering the protection currently afforded by the Code, would have the effect of bringing about fundamental changes in how allegations of discrimination were addressed. Under the new model, complainants would have direct access to the Human Rights Tribunal, thereby putting an end to the lengthy and expensive investigations carried out by the Commission. The Tribunal would be given enhanced powers to handle all aspects of complaints filed under the Code and emphasis would be placed on mediation and the settlement of disputes rather than adjudication.

30. Regarding delays in the submission of periodic reports, Canada took its implementation and reporting obligations very seriously, but the number and complexity of reports required under the various treaties, combined with a heavy workload and priority pressures, had meant that not all jurisdictions had been able to produce reports in time. However, federal, provincial and territorial governments had been making a concerted effort to reduce the number of outstanding reports to the United Nations treaty bodies. Concerning the structure of the reports, each jurisdiction in Canada had the right to prepare its own report. It was a deeply held view that the provinces should prepare their reports in an integral fashion.

31. Although Canada had not consulted specifically with NGOs in the preparation of its thirteenth and fourteenth periodic reports (CERD/C/320/Add.5), consultation with NGOs on racism issues occurred regularly through other forums. For example, Canada's Multiculturalism Programme had ongoing relationships with a network of NGOs and community partners through which they developed projects to combat racism and enhance intercultural understanding. Canada's international policies on discrimination and other human rights issues were guided by annual consultations with over one hundred NGOs.

32. In an effort to inform the Canadian public, hard copies of the reports were distributed to NGOs, government departments, federal and provincial human rights commissions and ombudsmen's offices, libraries and interested individuals. The reports, together with the Committee's concluding observations and the text of the Convention, were posted on the Department of Canadian Heritage's web site. Hard copies were available to the public free of charge. A press release had been issued to inform the public of the delegation's appearance before the Committee.

33 Mr. LUNDY (Canada) said that, instead of reducing the number of immigrant admissions in the face of a dire fiscal situation, the Canadian Government had introduced the Right of Landing Fee in 1995 to offset some of the cost of administering the immigration programme. In recognition of the fact that not all applicants would have an equal ability to pay, a loan programme had been established to assist certain individuals. In 1997, the fee regulations had been changed to allow immigrants more flexibility in paying and in 2000 the fee had been abolished for applicants qualifying under Canada's humanitarian provisions. Under the 2002 Immigration and Refugee Protection Act, all dependent children up to the age of 22 were exempted from paying the fee.

34. In reply to a question about the wage gap between Canadian-born citizens and immigrants, he said that the majority of immigrants were selected workers with qualifications who came from middle to upper class backgrounds in their country of origin and could not be considered socially disadvantaged. Studies had revealed that such workers typically received an average Canadian salary within three years of arrival and that over their lifetime they generally had a higher rate of income than the average native-born Canadian. Family Class immigrants, who were sponsored by a relative who was a Canadian citizen or a permanent resident, performed at the same level or slightly below the average native-born Canadian. Refugees were not selected on their capacity to settle and be successful and often had deficiencies in terms of skills and language abilities which affected their economic income.

35. In reply to a question about the high immigrant poverty rate, he said that the early 1980s and the early 1990s had been periods of severe economic downturn in Canada during which the economic performance of both Canadian citizens and immigrants had suffered. Other factors that contributed towards the deteriorating economic performance of immigrants included the general upskilling of Canadians and barriers to integration in the workforce such as language deficiencies and the failure to recognize foreign qualifications. The Department of Canadian Heritage was developing a wide range of programmes, including language and skills training, to address some of those issues.

36. Regarding access to education, he said that, with the exception of children born to accredited diplomats, all children born in Canada were Canadian citizens and had an automatic right to enter the school system. Under the Immigration and Refugee Protection Act, all children in Canada (other than the children of visitors) were allowed to attend school, regardless of their status. However, under the Constitution, education was an area of provincial responsibility and provincial requirements usually applied. For example, students wishing to attend school in Quebec had to provide proof of residency in the province.

37. On the issue of removals, the Immigration and Refugee Protection Act required that any person in Canada without lawful status must be removed as soon as was reasonably practicable. Sixty per cent of those removed were failed asylum seekers. Criminals, people posing a security threat, illegal workers and students and overstaying visitors were also liable for removal. However, Canada was conscious of its international obligations and all persons subject to removal were afforded due process of law and protection in accordance with international standards.

38. The Canadian Citizenship Law allowed the Government to institute proceedings to take away a person's citizenship in circumstances where they had made a fraudulent application or had failed to disclose information on their immigrant application that would have resulted in them being barred from the country. The Government had taken concrete steps in recent years to remove citizenship from those found to be guilty of war crimes or crimes against humanity.

39. Ms. BANERJEE (Canada) said that human rights training was an integral part of the community-based policing model used by Canada's federal law enforcement agency, the Royal Canadian Mounted Police. Cadets, who were trained to recognize the unique and diverse expectations of different communities and to act accordingly, were familiar with the legislation forming the basis of Canada's human rights framework.

40. Ms. GROULX (Canada) said that Canada had undertaken a comprehensive national consultation process to work with civil society on the development of national priorities for the World Conference against Racism. At the first meeting of the Preparatory Committee for the Conference, Canada had been a leading advocate of effective non-governmental participation in all aspects of the Conference. The Government had involved NGOs in the preparatory activities both domestically and internationally and had funded NGO participation in the process. Other activities had included roundtable discussions, a youth forum and virtual consultations. Three advisory committees had been established to advise the Secretary of State on Canada's preparations for the Conference.

41. In reply to a comment about efforts to address stereotyping in the media, she said that, under the Broadcasting Act, programming should be predominantly and distinctively Canadian and should contribute to the flow and exchange of cultural expression. In 1999, the Canadian Radio-Television and Telecommunications Commission (CRTC), which was responsible for regulating the Act, had introduced a new policy to ensure that the on-screen portrayal of all minority groups was accurate, fair and non-stereotypical, requiring the participation of all mainstream broadcasters. The Multiculturalism Programme was working with media partners to promote diversity education through the media.

42. The Canadian Race Relations Foundation had only recently been established and evaluation to date had been focused on its structure and administration rather than on the impact of its programmes or initiatives. Reports had revealed that a solid management infrastructure was in place, although some improvements were required in terms of the Foundation's relationship with the Department of Canadian Heritage. The two bodies had taken steps to address the issue. Furthermore, there was some overlap between the mandate of the Foundation and some of its activities and the Multiculturalism Programme.

43. Measuring the impact of social policies and programmes remained difficult, although new emphasis had been placed on the development of frameworks to measure results. Canada would welcome guidance from the Committee in that field. An Ethnic Diversity Survey was being conducted to capture core data that would assist in measuring the impact of government actions. A similar exercise would be conducted in 2003 in order to provide additional information on the Aboriginal peoples.

44. Mr. MOYER (Canada) said that Canadian governments throughout history had unsuccessfully attempted to adopt models of assimilation based on principles derived from Canada's Aboriginal and European heritages. A diversity model, based on compromise, had finally emerged, which rested on three key pillars: linguistic duality, recognition of Aboriginal peoples' rights and multiculturalism. Efforts needed to be made to promote understanding of the values on which the model was based. It was also important to bear in mind that the model was evolving in the face of a changing environment. Various factors suggested that multiculturalism in Canada was successful: the country had the fastest uptake of citizenship than any other immigrant-receiving country, in spite of the fact that non-citizens enjoyed all the same privileges with the exception of the right to vote, and more new immigrants penetrated into the political system in Canada than in any other immigrant-receiving country. However, multiculturalism did not allow for acknowledgement of how different groups were succeeding at different levels in Canadian society and failed to encompass some elements of diversity, for example the fact that some groups wanted the right to self-governance, which suggested that it only worked in combination with other factors.

45. Mr. THORNBERRY said that the Canadian delegation's lucid replies to the Committee's questions had clarified many matters. He felt that the Royal Commission on Aboriginal Peoples could be moving more swiftly in some areas; in that regard, Canada was in a position to provide the world with models of good practice. He welcomed the explanations regarding the Government's policy on the extinguishment of native land rights. He had been interested to

learn that the Aboriginal population was increasing, and welcomed the Government's creative approach to the status of Aboriginals within the federal system. In that regard, he would like to know whether any agreements on self-government had been established between Canada and the Aboriginal populations.

46. The term "visible minorities" was troubling, because it made the white population normal while making other populations abnormal: it saw the white population as invisible, and other portions of the population as visible. He nevertheless appreciated the good intentions of the Canadian Government, and the limited scope of that term.

47. Mr. de GOUTTES said he was under the impression, having listened to the delegation, that the difference between the Canadian justice system and the Convention on the matter of the interpretation of article 4 was in fact non-existent. The purpose of General Recommendation XV (42) on article 4 of the Convention was to affirm the compatibility of the prohibition against the dissemination of all ideas based on racial superiority or hatred with the right to freedom of expression and opinion. Close scrutiny would reveal that the Canadian delegation had expressed the same ideas during the current meeting: the quest for balance between the exigencies of the law and freedom of expression, and the right of all persons to protection against racism. The Canadian delegation had, in fact, stated that it was necessary to set limits and to establish certain exceptions to the right to freedom of expression when such expression was rife with racist hatred. Since Canada had not entered a formal reservation to article 4, there was no reason, in his view, why it should not join the 41 States that had made the declaration provided for under article 14 of the Convention.

48. Mr. LINDGREN inquired what Canada's reservations were with respect to the World Conference against Racism, held in Durban, in particular since that country had played an active role in preparing for that event.

49. Mr. RESHETOV said he had been glad to learn that the Canadian Government viewed the Aboriginal population as different from that of other minorities, on historical grounds. That was a significant position, and worthy of consideration by many countries of the world.

50. Ms. JANUARY-BARDILL stressed her point that the notion of multiculturalism was often a problem, because it evaded frank discussion about deeply rooted racism. She wondered, in that respect, what role slaves had played in the history of Canada. She welcomed the information regarding the deportations of African-Canadians; the next report should explain why most of the people deported from Canada originated in black diaspora nations such as Jamaica.

51. Mr. VALENCIA RODRÍGUEZ said that the discussion on the concept of multiculturalism had raised some interesting points. He too had been disturbed by the term "visible minorities", which prompted the question of who defined who was visible or invisible. It was more important to develop a conceptual understanding of the historical factors that had contributed to racism than merely to cultivate so-called tolerance. Racial prejudice could not be eliminated by the formulation of statements about the importance of multiculturalism.

52. Mr. SHAHI noted that the indigenous peoples of Canada had made many complaints about their status in that country. He would like to know what measures, if any, the Canadian Government had taken in response to the report of the Royal Commission on Aboriginal Peoples, which had concluded that the Aboriginal peoples must have room to exercise their autonomy and to structure their own solutions.

53. Mr. KJAERUM said that, although the First Nations Governance Act had apparently been accepted by the Aboriginal community, according to a report from Aboriginal Legal Services many Aboriginal groups had reportedly boycotted the acceptance process. Clarifications would be welcome. He would also like to know whether the delegation's answer to the question regarding the report of the British Columbia Human Rights Commission meant that the proposed legislation would eliminate provisions regarding research and education.

54. Mr. MOYER (Canada) said that some of the new questions would be answered subsequently in writing. The Aboriginal peoples of Canada had established an important set of principles with respect to their relationship to the land they had traditionally occupied, and the Canadian Government had agreed to enter into processes with respect to that land. The Government did not wish to take any action that would disturb that relationship and those understandings without giving the matter serious consideration.

55. The term "visible minorities," although it did, in fact, serve a useful purpose, was a subject of controversy in Canada as well. It should be remembered that the visible minorities were only one element among many in the broader concept of diversity.

56. Canada's scruples with respect to the World Conference against Racism were a matter of public record; if the Committee so wished, his delegation could provide that information in written form.

57. The question raised about the term "multiculturalism," and in particular Canada's approach to that term, deserved a full discussion. The Government understood that multiculturalism was not helpful when it served to hide issues of economic injustice and to deny opportunities. It also believed that the success of a community depended in large part on the pride it took in its own existence and achievements, and felt that the multicultural approach contributed to the enhancement of community pride. It was a sad truth that racism was embedded in all societies throughout the world: the Government was well aware of the explicit and implicit racism in Canadian society. It did not believe, however, that the majority of Canadians espoused racist views or supported racist activities. The report discussed the educational and legal measures that Canada had taken to fight racism.

58. It came as a surprise to many Canadians that slavery had in fact existed in that country, and was part of the national heritage. In addition, there were minority populations that had been subjected to slavery in other countries before coming to Canada. The Government therefore approached the matter of slavery with those two historical strands in mind.

59. The Government had constructed a broad, open opportunity for Aboriginal populations to participate in the formulation of the draft First Nations Governance Act; unfortunately, some members of the Aboriginal leadership had disagreed on what they considered to be an essential

principle, and had declined to participate. That bill was currently before Parliament, and representatives of the Aboriginal populations would have ample opportunity to express their views to that body.

60. He would distribute materials that would clarify the matter raised regarding the report of the British Columbia Human Rights Commission

61. The preparation of the report and its consideration by the Committee helped the Canadian Government to re-examine and to enhance its understanding of those important issues. Should the Committee identify any effective social indicators or performance measurements regarding racism, the Canadian Government would be glad to learn of them.

62. Mr. HERNDL (Country Rapporteur) said that the composition of the delegation was commendable. The otherwise excellent report had structural problems, such as the failure to integrate information from the various provinces. The meaning of such terms as "visible minorities" and "multiculturalism", and their role in the implementation of the Convention, remained unclear.

63. Canada should ponder the status of provincial legislation when it contravened an international convention. A similar question arose with respect to the Constitution, which stated that anything that contradicted it was invalid. The Committee hoped that Canada would make the declaration under article 14; as Mr. de Gouttes had pointed out, there was no real disagreement between the views of Canada and those of the Committee.

64. The status of the Aboriginal population presented problems, as evidenced in particular by the persistent land claims and numerous reported deaths in custody. Furthermore, there was an unreasonably high proportion of African-Canadians in detention or subject to deportation. More information should be provided on those matters in the next report. In addition, the Canadian Human Rights Act should apply to all persons under Canadian jurisdiction, including those who were stateless.

65. Finally, he said that he was confident that the Canadian Government would continue its commendable efforts to exterminate racism.

The meeting rose at 1.05 p.m.